

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GERALD HAYDEN,

Plaintiff,

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION, PABLO
SUAREZ and SHANKER
RAMAMURTHY,

Defendants.

Civil Action No. 7:21-CV-02485-VB

**DECLARATION OF COUNSEL
JULIO C. GOMEZ**

I, JULIO C. GOMEZ, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am Special Counsel with the law firm of Stone & Magnanini LLP, Attorneys for Claimants in the above-captioned matter. I make this Certification in response to the Court's June 22, 2021 Order (Dkt. 9).

2. Attached hereto are true and correct copies of the following documents:

TAB	DESCRIPTION
A	Waiver of the Service of Summons on behalf of Defendant International Business Machines Corporation ("IBM") as of June 18, 2021;
B	Waiver of the Service of Summons on behalf of Defendant Shanker Ramamurthy as of June 18, 2021;

C	Waiver of the Service of Summons on behalf of Defendant Pablo Suarez as of June 18, 2021;
D	Affidavit of Service upon Defendant Shanker Ramamurthy by substitute service on June 23, 2021; and
E	Affidavit of Service upon Defendant Pablo Suarez by substitute service on June 23, 2021.

3. Prior to the filing of Plaintiff's First Amended Complaint, I discussed service with Defendants' counsel, and on Wednesday, June 16, 2021, Jacqueline M. Holmes, Esq., a partner of Jones Day, notified me that Defendant IBM would be waiving service of the summons.

4. On Thursday, June 17, 2021, I inquired of Ms. Holmes whether Defendants Ramamurthy and Suarez would also be waiving service of the summons, but did not receive an immediate response, presumably because Ms. Holmes was making the necessary inquiries.

5. On Friday, June 18, 2021, I transmitted to Jacqueline M. Holmes, Esq., the following documents (1) a copy of the original Complaint filed on March 22, 2021 (Dkt. 1); (2) a copy of the Civil Cover Sheet (Dkt. 2); (3) a copy Plaintiff's Fed. R. Civ. P. 7.1 Disclosure Statement (Dkt. 3); (4) a copy of the First Amended Complaint filed on June 18, 2021 (Dkt. 4); and (5) Waivers of the Service of Summons by all Defendants (IBM and Messrs. Ramamurthy and Suarez).

6. Between Thursday, June 17, 2021 and Friday, June 25, 2021, our Firm tried to confirm via email and telephone messages that Jones Day would be representing Defendants Ramamurthy and Suarez and that they would also be waiving service of the summons. We were informed by Ms. Holmes that she was trying to confirm the representation and the waivers of service and would notify us as soon as she had authority to do so.

7. In the meantime, Plaintiff proceeded to attempt personal service upon Messrs. Ramamurthy and Suarez. The Court having been closed unexpectedly on Friday, June 18th in

observance of the Juneteenth federal holiday, we did not receive summonses until the afternoon of June 21, 2021. (Dkt. 8 and 9).

8. On Monday, June 21, 2021, upon receipt of the summons, we retained a process server who attempted personal service upon Messrs. Ramamurthy and Suarez that evening at addresses in New York City where Plaintiff believes these defendants reside. Personal service was not effective because the process server was not permitted into their buildings by security.

9. On Tuesday, June 22, 2021, the process server returned to the same addresses and attempted to effect substitute service. *See* Ex. D and E.

10. On Saturday, June 26, 2021, we received executed Waivers of the Summons on behalf of IBM and Ramamurthy as of June 18, 2021, the date when the request for waiver was tendered and the date from which responsive pleadings will run. *See* Ex. A and B.

11. Today, Monday, June 28, 2021, we received an executed Waiver of the Summons on behalf of Suarez as of June 18, 2021, the date when this request for waiver was tendered and the date from which responsive pleadings will run. *See* Ex. C.

12. Plaintiff respectfully requests that the waivers of service filed herewith and service attempts outlined above satisfy Plaintiff's obligations under Fed. R. Civ. P. 4. Plaintiff's counsel is at the Court's disposal to supply any additional information or documentation the Court may require. Thank you.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Respectfully submitted,

Dated: June 28, 2021

s/Julio C. Gomez
Julio C. Gomez, Esq.
STONE & MAGNANINI LLP
Attorneys for Plaintiff Gerald W. Hayden

DECLARATION OF SERVICE

I hereby declare that on this 28th day of June, 2021, I caused the foregoing Declaration of Counsel to be filed with the Court via CM/ECF and served upon counsel for defendants a copy of same via email directed to:

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